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OFFICE OF PETITIONS

In re Application of :
Nemoto et al. :
Application No. 10/728,938 : DECISION ON PETITION
Filed: December 8, 2003 :
Attorney Docket No. 19546.0034 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and Drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1050.00 extension of time fee submitted with the petition on May 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2619 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions